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Responsive to Final Office Action mailed on 4 May 2006

REMARKS AND ARGUMENTS

Claim Rejections Under 35 U.S.C. § 102 – Deagan Reference

In the Office Action, **Claims 4, 19-21, and 24** were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,566,398 to Deagan.

These rejections are traversed on the ground that the cited reference fails to disclose all of the limitations of independent **Claims 4 and 19** or of any of the other rejected claims, which depend from and thereby contain all of the limitations of **Claim 19**.

Independent Claims 4 and 19

Both **Claims 4 and 19** recite that the claimed **changing aid** comprises a **mat** to which an **effect generating mechanism** is joined. In addition, **Claim 4** recites that the **effect generating mechanism** comprises a magnet, an air jet, or a thermal cell and is adapted to move a portion of the article from a **first point** to a **second point**. Also, **Claim 19** recites that the **effect generating mechanism** is adapted to transform a portion of the article from a **first condition** to a **second condition**.

In the Office Action, the *helmet removal device 10* of Deagan was equated to the claimed **changing aid**, the *bladder 24* was equated to the claimed **mat**, the *inflating device 40* was equated to the claimed **effect generating mechanism**, and the *helmet 12* was equated to the claimed **article**. It was alleged in the Office Action that the *inflating device 40* comprises an air jet and that when the *inflating device 40* is activated, it moves the *helmet 12* and thereby transforms it. However, these allegations are inaccurate and internally contradictory.

To begin with, Deagan does not disclose a mat. It is abundantly clear from the present disclosure that the use of the word “mat” to describe an element of the present invention refers to a pad or cushion having the form of a slab and thereby resembling previously known diaper changing mats. The collapsed and folded *bladder 24* of Deagan is not a pad or a cushion and does not resemble the mat forms described in the present specification and shown in the drawings. Even if the *bladder 24* could perform a “padding” or “cushioning” effect when inflated, this would not make it a mat, any more than a beach ball could be considered to be a mat simply by dint of

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being an inflated object that “cushions” a child falling on top of it, or any more than a car tire could be considered to be a mat simply by dint of being another inflated object that “cushions” the vehicle riding on it. A mat is a mat and the *bladder 24* is not a mat.

Next, the *inflating device 40* of Deagan itself does not move anything. Instead, it merely provides a pressurized fluid, such as air, through the *connector 38* to the *tube 28*, which is engaged to the *bladder 24*. It is the *bladder 24* which, as it is inflated, expands and thereby moves the *helmet 12* relative to the head of the wearer. Thus, the only possible structural analogue to the claimed **effect generating mechanism** is either the *bladder 24* alone or, alternatively, the combination of the *bladder 24*, the *tube 28*, the *connector 38*, and the *inflating device 40*, i.e., the “system” whose combined function is to move the *helmet 12*. Regardless of which alternative is considered, the structural analogue to the claimed effect generating mechanism necessarily includes the bladder 24. Therefore, the *bladder 24* cannot be equated to the claimed **mat** because this would nonsensically mean that the *bladder 24* would be both the mat and the effect generating mechanism that is joined to the mat, i.e., the *bladder 24* would impossibly be both itself and something else joined to itself. Thus, the statement of rejection is internally contradictory.

Additionally, the allegation that the *inflating device 40* comprises an air jet fails to identify any specific structural element as corresponding to the claimed air jet. Furthermore, this allegation is unsupported. As explained in the previous Reply, a “jet” is “a usually forceful stream of fluid (as water or gas) discharged from a narrow opening or a nozzle” (Merriam-Webster® on-line dictionary). A stream of water discharged from a nozzle on the end of a garden hose is a jet, but water flowing through the hose from the faucet to the nozzle is not a jet. Nozzles are clearly shown in Figures 4a and 4b of the subject Application. Also shown in Figure 4b are jets being discharged from nozzles and acting to move a portion of the **article**. In contrast, Deagan discloses no stream of fluid (air or otherwise) being discharged from a nozzle. Even more specifically, Deagan discloses no discharged stream of air that moves the helmet 12. Instead, as already noted, the *inflating device 40* merely supplies a fluid such as air to inflate the *bladder 24* and the expansion of the bladder 24 moves the helmet 12.

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Finally, the movement of the *helmet 12* by the *bladder 24* does not constitute a transformation of the *helmet 12*. As explicitly defined in the present Application, a transformation is a change in a physical property of the article or the connection or disconnection of two portions of the article. Thus, a movement is clearly distinguished from a transformation and clear examples of both movement and transformation are provided in the present Application. Specifically, a movement is from point to point, while a transformation is from condition to condition. In fact, this distinction lies behind the difference between **Claim 4**, in which the **effect generating mechanism** is recited to be adapted to *move* a portion of the article from a first point to a second point, and **Claim 19**, in which the **effect generating mechanism** is recited to be adapted to *transform* a portion of the article from a first condition to a second condition. Therefore, it is fundamentally improper to disregard the explicit distinction and thereby erroneously equate the two as in the statement of rejection. The *bladder 24* moves the *helmet 12*, but it does not transform the *helmet 12*.

Thus, Deagan fails to anticipate either of the independent claims or any of the other pending claims, all of which depend from **Claim 19**. In addition, the following comments regarding the rejections of the dependent claims bear mention.

Claims 20 and 21

It was alleged in the Office Action that the *inflating device 40* of Deagan causes the expansion of the *bladder 24*, thereby reducing the interior size of the *helmet 12* and changing a material property of the *helmet 12*. This allegation confuses and confounds the clear meaning of a fundamental term. The inflation of the *bladder 24* has no effect whatsoever on the size of the *helmet 12*. Instead, it merely fills a portion of the cavity inside the *helmet 12*, having no more effect on the size of the *helmet 12* than does the insertion of the wearer's head into the same cavity. In other words, neither wearing the *helmet 12* nor inflating the *bladder 24* inside it affects the size of the *helmet 12*. Both merely occupy some of space inside the *helmet 12* without changing its size.

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Claim 24

Since no *transformation* of the *helmet 12* is disclosed by Deagan, the limitation that the claimed transformation is temporary cannot possibly be met.

Summary with respect to Claims 4, 19-21, and 24

The cited Deagan reference fails to teach each and every element of any of the rejected claims. Accordingly, it is respectfully requested that the rejections of **Claims 4, 19-21, and 24** be withdrawn.

Claim Rejections Under 35 U.S.C. § 102 – Malick Reference

In the Office Action, **Claims 4, 19 and 22-25** were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 4,015,296 to Malick.

These rejections are traversed on the ground that the cited reference fails to disclose all of the limitations of independent **Claims 4 and 19** or of any of the other rejected claims, which depend from and thereby contain all of the limitations of **Claim 19**.

Independent Claims 4 and 19

Both **Claims 4 and 19** recite that the claimed **changing aid** comprises a **mat** to which an **effect generating mechanism** is joined.

In the Office Action, the *magnet means 20* of Malick was equated to the claimed **changing aid**. In addition, it was alleged that the *magnet means 20* comprises a **mat** and that the *magnet means 20* comprises an effect generating mechanism, “the effect generating mechanism being magnetic”. It was also alleged that the effect generating mechanism moves and transforms the *magnetic material closing means 18* of the *longitudinal edges 12* from a first condition to a second condition. However, these allegations are inaccurate, unsupported, and incomplete.

To begin with, the allegation that the *magnet means 20* of Malick comprises an effect generating mechanism that is magnetic fails to identify any specific structural element as corresponding to the claimed **effect generating mechanism**. Perhaps the intention was to refer to the unidentified

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magnet (no reference numeral in Malick) that appears to be mounted onto the end of the unidentified *handle* (no reference numeral in Malick), but this presumption cannot be confirmed on the basis of the content of the Office Action. Perhaps another intention was to equate the unidentified *magnet* of Malick to the claimed *magnet*, but this presumption likewise cannot be confirmed. Additionally, the identification of the *longitudinal edges 12* of the *stocking 10* of Malick as corresponding to the claimed *article* is not understood. Perhaps the intention was to refer to the *zipper 14*, of which the *magnetic material closing means 18* is disclosed to be a part, but this presumption cannot be confirmed. If correct, this interpretation would presumably give the allegation the meaning that the unidentified *magnet* of Malick moves and transforms the *magnetic material closing means 18* of the *zipper 14* from a first condition to a second condition. Unfortunately, neither of these first and second conditions was identified in the Office Action. Perhaps the intention was to refer to the *zipper 14* being "opened" or "closed", rather than to the *magnetic material closing means 18* being somehow transformed, but this presumption cannot be confirmed.

In light of the aforementioned failures to identify the effect generating mechanism and the magnetic element, the unexplained reference to the *longitudinal edges 12* of the *stocking 10*, the failure to identify the first and second conditions, and the unexplained reference to the *magnetic material closing means 18* being somehow "transformed", the rejections are fundamentally incomplete and therefore the Final Office Action itself is improper. Nevertheless, in a sincere attempt to address the rejections despite these fundamental issues, this Reply is written on the basis that all of the presumptions above accurately reflect the Examiner's intentions. Confirmation of this basis is respectfully requested and, if any presumption above does not reflect the Examiner's intention, then it is fully expected that an opportunity to reply on the correct basis will be provided.

Next, the allegation that the *magnet means 20* of Malick comprises a mat fails to identify any specific structural element as corresponding to the claimed *mat*. Furthermore, this allegation is unsupported. As noted above, the meaning of the word "mat" is abundantly clear in the present Application. Malick discloses that the "[m]agnet means 20 are preferably provided for moving the magnetic material closing means 18...along the edges 12 for contactless closing and opening

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of the zipper 14", but provides no written description of the structure of the *magnet means 20*. Thus, the only disclosure of the structure of the *magnet means 20* is its depiction in Figure 2 and it is clear from this figure that the *magnet means 20* is nothing more than a magnet on a handle. In other words, the *magnet means 20* does not comprise anything that could possibly be considered to be a mat.

Thus, Malick fails to anticipate either of the independent claims or any of the other pending claims, all of which depend from Claim 19. In addition, the following comments regarding the rejection of dependent Claim 23 bear mention.

Claim 23

It was alleged in the Office Action that the unidentified effect generating mechanism, which is presumed to be the unidentified *magnet* of Malick, "connects a first portion of the article to a second portion, thus activating or deactivating adhesion between the portions". This allegation confuses and confounds the clear meaning of a fundamental term. The claim language does not contain or somehow relate to the general notion of "adhesion". Instead, the phrase "activate or deactivate an adhesive" is explicitly recited. Clearly, the term "adhesive" is used as a noun. In particular, the term "adhesive" is used consistently throughout the present Application to refer to an adhesive substance such as glue, just as it is ubiquitously used in the art to mean. In addition, a detailed description of activatable and deactivatable adhesives, as well as their activation and deactivation, is provided in the present Application.

The *magnet means 20* of Malick enables the operation of the zipper 14 of the *stocking 10* and therefore it is presumed that the intention when referring in the Office Action to connecting "a first portion of the article to a second portion" was to refer to opening or closing the zipper 14 by the use of the *magnet means 20*. However, the zipper 14 does not contain an adhesive. Furthermore, operation of the zipper 14 clearly does not constitute an activation or a deactivation of an adhesive.

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Summary with respect to Claims 4, 19, and 22-25

The cited Malick reference fails to teach each and every element of any of the rejected claims. Accordingly, it is respectfully requested that the rejections of Claims 4, 19, and 22-25 be withdrawn.

Summary of this Reply

The basic requirement for an anticipation rejection has not been met with respect to any of the pending claims. Therefore, it is respectfully requested that the pending claims be allowed.

Respectfully submitted,
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